Title 13

PUBLIC SERVICES

Chapters:

13.02 Sewer Use Law

13.04 Water Service System

Chapter 13.02

SEWER USE LAW

ARTICLE I

SHORT TITLE AND STATEMENT OF PURPOSE

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13.02.010 Short title. 13.02.020 General purpose. 13.02.030 Specific purposes. 13.02.040 Applicability. 13.02.050 Power.

13.02.010 Short title.

This law shall be known as the Big Flats Sewer Use Law. (LL No. 3, 2009§ 101)

13.02.020 General purpose.

The general purpose of this law is to provide for efficient, economic, environmentally safe and legal operation of the Big Flats Sewer *District* No. 1, ("sewer *district*") and the sanitary, storm, and/or combined sewers of the sewer *district* and tributaries thereto. In addition, this law sets forth requirements for users or contributors to the public owned treatment works of Chemung *county* ("POTW") in which the sewer *district* effluent ultimately flows, and enables the town to comply with all applicable state and federal laws, including the Federal Water Pollution Control Act of 1972 and its subsequent revisions, federal regulations promulgated thereunder, and other state, federal and local statutes, regulations, administrative orders and ordinances. (LL No. 3, 2009§ 102)

13.02.030 Specific purposes.

The specific purposes of this law are the following:

- (1) To prevent the introduction of substances into the POTW that will:
 - (a) Interfere with or adversely impact the POTW in any way,
 - (b) Pass through the POTW to the state's waters and cause contravention of standards for those waters or cause violation of the POTW's SPDES permit or otherwise be incompatible with the POTW,
 - (c) Contaminate or adversely impact POTW sludge management, increase the cost or otherwise hamper the disposal of POTW sludge and/or residuals,
 - (d) Endanger the health or welfare of persons,

- (e) Cause air pollution, or groundwater pollution, directly or indirectly or otherwise present an endangerment to the environment.
- (f) Cause, directly or indirectly, any public nuisance condition.
- (2) To prevent new sources of *infiltration* and inflow and, as much as possible, eliminate existing sources of *infiltration* and inflow.
- (3) To assure that new sewers and connections are properly constructed.
- (4) To provide for equitable distribution to all users of the sewer *district* all capital and operational costs, including but not limited to, costs associated with sewage transmission, treatment, and residuals disposal, and to provide for the collection of such costs.
- (5) To require compliance with all applicable state, federal and local laws, regulations, administrative orders and ordinances.
- (6) To improve opportunities to recycle and reclaim POTW sludge and/or residuals. (LL No. 3, 2009 \S 103)

13.02.040 Applicability.

This law, and any rules and regulations promulgated hereunder, applies to all users of the sewer *district* without exception. (LL No. 3, 2009§ 104)

13.02.050 Power.

The administrative board are hereby granted those powers as more fully provided under Article 12 and Article 12-C of the town law, together with such other federal, state and town laws applicable to sewer *district* and to promulgate thereunder such rules and regulations as provided in Article 12 and Article 12-C of the town law.

The administrative board are hereby further granted the authority that in the event that the sewer *district* have capacity in excess of its own needs, the administrative board may contract with municipalities, *districts*, public or private corporations or individuals within or without the sewer *district* for the collection, conveyance, treatment and/or disposal of sewage including scavenger wastes.

(LL No. 3, 2009§ 105)

ARTICLE II

RULES AND REGULATIONS

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13.02.060 Authority.

13.02.070 Procedures for adopting rules and regulations.

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13.02.090 Definitions.

13.02.060 Authority.

Pursuant to Article 12 and Article 12-C of the town law of the state of New York, the power to adopt, amend and repeal rules and regulations for the operation of the sewer *district* are vested in the town board. (LL No. 3, 2009§ 201)

13.02.070 Procedures for adopting rules and regulations.

The town board may by resolution, adopt, amend and repeal, from time to time, rules and regulations to provide for the efficient, economic, environmentally safe and legal operation of the sewer *district*. (LL No. 3, 2009§ 202)

13.02.080 Authority to enforce rules and regulations.

The town board shall comprise the administrative board of the sewer *district*. The administrative board of the sewer *district* and their designees, including the superintendent, are authorized to implement and enforce this law and any rules and regulations adopted by the town board and to otherwise carry out the policies, operations, administration, maintenance, design, construction and supervision of all programs within the sewer *district* in accordance with Article 12 and Article 12-C of the town law of the state of New York.

(LL No. 3, 2009§ 203)

13.02.090 **Definitions**.

Unless otherwise stated in the section where the term is used in the Big Flats Sewer *Use* Law, the meaning of the terms used herein shall be as stated and defined in the rules and regulations referred to in Section 13.02.070 above, as may be amended from time to time. If not so defined, such terms shall be defined as provided in Title 1 of the town code. If not so defined therein, such terms shall have the ordinary and customary meaning as used in the town. (LL No. 3, 2009§ 204)

ARTICLE III

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13.02.100 Public information.

The Big Flats Sewer *District* shall:

- (1) Adopt within the rules a description of its organization, stating the general policy and method of operation and designate where applications, requests and submissions shall be made;
- Make available to the public or other governmental *agency* for inspection and/or copying information and data on users obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections unless the user specifically requests in writing and is able to demonstrate to the satisfaction of the superintendent that such information, if made public, would divulge information, processes or methods of production entitled to protection as trade secrets of the user or otherwise prohibited by law. Wastewater constituents and characteristics will not be recognized as confidential. Confidential information shall not be made available for inspection and/or copying by the public but shall be disclosed upon written request to governmental *agencies* for uses related to this law, the state pollutant discharge elimination permit program, sludge disposal system permit program and/or pretreatment program providing that the governmental *agency* making the request agrees to hold the information confidential in accordance with state or federal laws and regulations. The superintendent shall give written notice to the user of any disclosure of confidential information to another governmental *agency*.

Where a request is made to the superintendent to treat information as confidential, the superintendent shall treat it as such unless and until the superintendent notifies the user, in writing, of the denial of the request. The decision of the superintendent shall be

effective ten (10) days after the date of the notice. If review of the superintendent's decision is commenced under the "contested cases" provisions of this article before the expiration of the ten (10) days, the superintendent shall continue to treat the information as confidential unless the administrative board upholds the superintendent's initial decision denying the request for confidentiality. If the review of the information for which confidential treatment is sought could present a conflict of interest for any member of the administrative board that member shall take no part in the administrative board's decision. Any materials considered in a confidentiality proceeding may not be disclosed by any administrative board member if the request for confidentiality is upheld by the administrative board. The decision of the board shall be effective five days after service upon the user of the final decision;

- (3) Adopt rules stating the nature and requirements of procedures in applying for a permit, in requesting a hearing, and how to submit or oppose the adoption of any rule;
- (4) Make all rules, orders, statement of policy or interpretation used by the sewer *district* in the discharge of their functions available for public inspection. No rule, order or decision is valid against any person or party until it has been made available for public inspection. This provision is not applicable in favor of any person or party who has actual knowledge thereof.

(LL No. 3, 2009§ 301)

13.02.110 Declaratory opinions by the superintendent, declaratory rulings by the administrative board.

- (A) The superintendent shall give a declaratory opinion when either of two conditions exist:
- (1) A petitioner's position is not consistent with the policy contained in the Big Flats Sewer *Use* Law or the rules and regulations adopted by the administrative board. This request must be acknowledged within ten (10) working days, or
- (2) The superintendent formally notifies a party of an existing violation or violations of the Big Flats Sewer *Use* Law or the rules and regulations which, in the superintendent's opinion, will make the party subject to enforcement and penalties as contained in Article IV of this Law.
- (B) The administrative board shall be informed of all opinions of the superintendent. Such opinions are not binding on the administrative board but shall be reviewed, with notice, upon a formal request of any party or the administrative board. After review, the administrative board will issue a declaratory ruling to be filed with the clerk of the town of Big Flats. (LL No. 3, 2009§ 302)

13.02.120 Contested cases; notice; hearings; records.

- (A) In a contested case all parties shall be afforded an opportunity for hearing after reasonable notice. The hearings shall be conducted by the administrative board or a hearing officer appointed by the board.
 - (B) The notice shall include:
 - (1) A statement of the time, place, and nature of the hearing;
 - (2) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - (3) A reference to the particular sections of this law and/or the rules and regulations involved; and
 - (4) A short and plain statement of the matters asserted. If the administrative board or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of issues involved. Thereafter upon application, a more definite and detailed statement shall be furnished.
- (C) Upon the return day of such notice the person so notified shall file with the administrative board, a statement setting forth the position of the person so notified, an answer to the charges made, if any, and any other defenses or information pertinent to the case. Pertinent and relevant testimony of witnesses and other evidence shall be received in support or opposition to such statement.
 - (D) Opportunity shall be afforded all parties to respond and present evidence, sworn testimony and argument on all

issues involved.

- (E) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default prior to the hearing. Within ten (10) days prior to the hearing, parties may request a prehearing conference with the administrative board's representative for an informal disposition of any or all issues.
- (F) The administrative board or hearing officer may issue subpoenas and administer oaths in connection with any hearing or investigation, and it shall be the duty of the administrative board or hearing officer to issue subpoenas at the request of and on behalf of any party.
 - (G) Oral proceedings or any part thereof shall be transcribed on request of any party.
 - (H) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.
 - (I) The record upon appeal from a determination of the administrative board in a contested case shall include:
 - (1) All pleadings, motions, and intermediate rulings;
 - (2) Evidence received or considered;
 - (3) A statement of matters officially noticed;
 - (4) Questions and offers of proof, objections, and rulings thereon;
 - (5) Proposed findings and exceptions;
 - (6) Any decision, opinion, or report by the hearing officer; and
 - (7) All staff memoranda or data submitted to the hearing officer or members of the administrative board in connection with their consideration of the case.

(LL No. 3, 2009§ 303)

13.02.130 Rules of evidence; official notices.

In contested cases:

- (A) The rules of evidence need not be strictly applied; provided, however, that irrelevant, immaterial, or unduly repetitious evidence shall be excluded. However, the rules of privilege recognized by New York State Law must be given effect. Objections to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced substantially, any part of the evidence may be received in written form;
- (B) Documentary evidence may be received in the form of copies or excerpts, if the original is not readily available. Upon request, parties shall be given an opportunity to compare the copy with the original;
- (C) A party may conduct cross examinations as required for a full and true disclosure of the facts; and
- (D) Notice may be taken of judicially cognizable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the sewer *district's* special knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material noticed. The sewer *district's* experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence.

(LL No. 3, 2009§ 304)

13.02.140 Examination of evidence by administrative board.

When in a contested case a majority of the members of the administrative board who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the sewer *district*, shall not be made until a proposal for decision is served upon the parties, and an opportunity is afforded to each party adversely affected to file exceptions and present briefs and oral argument to the administrative board members who are to render the decision. The proposal for decision shall contain a statement of the proposed decision, prepared by the person who conducted the hearing or one who has read the record. The parties by written stipulation may waive compliance with this action. (LL No. 3, 2009§ 305)

13.02.150 Decision and orders.

A final decision or order adverse to a party in a contested case shall be in writing or stated in the record. A final decision shall include findings of fact and conclusions of law, separately stated. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. If, in accordance with the rules of the sewer *district*, a party submitted proposed findings of fact, the decision shall a ruling upon each proposed finding. Parties shall be notified either personally or by mail of any decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith to each party and to attorneys of record.

(LL No. 3, 2009§ 306)

13.02.160 Ex parte consultations.

Unless required for the disposition of an ex parte matter authorized by law, members or employees of the sewer *district* assigned to render a decision or to make findings of fact and conclusions of law in a contested case shall not communicate, directly or indirectly, in connection with any issue of fact, with any person or party, nor, in connection with any issue of law, with any party or its representatives, except upon notice and opportunity for all parties to participate. A member of the sewer *district*:

- (A) May communicate with other members of the sewer *district*; and
- (B) May have the aid and advice of one or more personal assistants. (LL No. 3, 2009§ 307)

13.02.170 Permits and licenses.

- (A) Whenever a hearing is required in connection with a permit or a license the provisions of this law concerning contested cases shall apply.
- (B) When a permittee or licensee has made timely and sufficient application for the renewal of a permit or license or a new permit or new license with reference to any activity of a continuing nature, the existing Permit or license does not expire until the application has been finally determined by the administrative board, and, in case the application is denied or the terms of the new permit or license are limited, until the last day for seeking review of the order of the sewer *district* or a later date fixed by order of the court of competent jurisdiction.
- (C) No revocation, suspension, annulment, or withdrawal of any permit or license is lawful unless, prior to the institution of administrative board proceedings, the sewer *district* gave notice by registered mail to the permittee or licensee of facts or conduct which warrant the intended action, and the permittee was given an opportunity to show compliance with all lawful requirements for the retention of the permit. If the superintendent finds that public health, safety, or welfare requires emergency action, and incorporates a finding to that effect in the superintendent's order, summary suspension of a permit may be ordered pending proceedings for revocation or other action. These proceedings shall be promptly instituted and determined. (LL No. 3, 2009§ 308)

13.02.180 Review of contested cases.

- (A) A party, who has exhausted all administrative remedies available within the sewer *district* and who is aggrieved by a final decision in a contested case, is entitled to review.
- (B) Review of a rate making determination shall be accomplished by petition to the administrative board pursuant to the scale of charges.

- (C) Review of other decisions are instituted by filing a petition in New York Supreme Court located in and for the *county* of Chemung within thirty (30) days after issuance of the final decision of the administrative board or, if a rehearing is requested and granted, within thirty (30) days after the decision thereon.
- (D) The filing of the petition does not itself stay enforcement of the administrative board's decision though a stay may be granted upon appropriate terms by the administrative board.
- (E) The administrative board of the sewer *district* shall transmit to the reviewing court the original (or certified) copy of the proceeding under review. The cost of the record upon appeal shall be paid by the appellant, and the ultimate cost thereof shall abide the final determination. (LL No. 3, 2009§ 309)

ARTICLE IV

ENFORCEMENT AND PENALTIES

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13.02.360 Contractor listings.

13.02.190 Enforcement response plan.

The superintendent shall prepare a statement of policy on enforcement response, to be called the enforcement response plan. The plan, in a step by step fashion, shall provide guidance on how the superintendent may respond to violations. The enforcement response plan shall outline the procedures to be followed to identify, document, and respond to violations of this law or the rules and regulations promulgated hereunder. All violations of this law or the rules and regulations promulgated hereunder shall be met with some type of enforcement response. The administrative board shall approve the enforcement response plan. (LL No. 3, 2009§ 401)

13.02.200 Violations.

Any person who violates any of the provisions of the Big Flats Sewer *Use* Law or any rule or regulation promulgated pursuant thereto, or any term or condition of any license or permit issued pursuant thereto, or any final determination or any notification of violation, order or other final determination made pursuant thereto is in violation and shall be liable as provided in this article. The superintendent shall respond to all violations pursuant to the enforcement response plan promulgated in accordance with Section 13.02.190 where applicable.

(LL No. 3, 2009§ 402)

13.02.210 Notification of violation.

Whenever the superintendent finds that any user or other person is committing or has committed a violation the superintendent may serve upon such person a written notification of violation stating the nature of the violation. Within ten (10) calendar days of the date the superintendent mails the notice, an explanation of the violation, and a plan for the satisfactory correction

and prevention thereof shall be submitted to the superintendent, by the user. The correction and prevention plan shall include specific actions. Submission of this plan in no way relieves the user of liability for any violations caused by the user before or after receipt of the notification of violation.

(LL No. 3, 2009§ 403)

13.02.220 Consent orders.

The superintendent may enter into consent orders, upon prior approval of the administrative board, and receipt of written assurances of voluntary compliance or other similar documents establishing an agreement with the user responsible for any violation. A consent order shall include specific action to be taken by the user to correct the violation within a time period also specified by the consent order. Consent orders shall have the same force and effect as an administrative order. (LL No. 3, 2009§ 404)

13.02.230 Administrative or compliance orders.

- (A) When the superintendent finds that any user or other person is committing or has committed a violation the superintendent may issue an administrative order to the user responsible for the violation directing that, following a specified time period, sewer service shall be suspended or discontinued, severed and abated unless the violation is corrected and there is no reoccurrence of the violation. Administrative orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self monitoring, and management practices.
- (B) The user may, within fifteen (15) calendar days of receipt of such order, petition the superintendent to modify or suspend the order, stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the superintendent by registered mail. The superintendent shall then:
 - (1) Reject any frivolous or nonconforming petitions,
 - (2) Modify or suspend the order, or
 - Order the petitioner to show cause in accordance with Section 13.02.270 of this law and may as part of the show cause notice request the user to supply additional information.

(LL No. 3, 2009§ 405)

13.02.240 Administrative fines.

Notwithstanding any other section of this law or the rules and regulations, when the superintendent finds that any person is committing or has committed a violation, the superintendent may assess a fine in an amount not to exceed one thousand dollars (\$1,000.00) per day per violation. The user may, within fifteen (15) calendar days of notification of such fine, petition the superintendent to modify or suspend the imposed fine, stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the superintendent by registered mail. The superintendent may then:

- (1) Reject any frivolous or nonconforming petitions, or
- (2) Modify or suspend the fine, or
- Order the petitioner to show cause in accordance with Section 13.02.270 and of this law, may as part of the show cause notice, request the user to supply additional information.

(LL No. 3, 2009§ 406)

13.02.250 Cease and desist orders.

(A) When the superintendent finds that any person is committing or has committed a violation, the superintendent may issue an administrative order to cease and desist all such violations and direct those persons in noncompliance to:

- (1) Comply forthwith.
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations or terminating the discharge.
- (B) The user may, within fifteen (15) calendar days of the date the superintendent mails notification of such order, petition the superintendent to modify or suspend the order stating with specificity the relief requested, the reasons therefore, and all authority to be considered. Such petition shall be in written form and shall be transmitted to the superintendent by registered mail. The superintendent may then:
 - (1) Reject any frivolous or nonconforming petitions, or
 - (2) Modify or suspend the order, or
- (3) Order the petitioner to show cause in accordance with Section 13.02.270 of this law, and may, as part of the show cause notice, request the user to supply additional information.
 (LL No. 3, 2009\) 407)

13.02.260 Termination of permit.

- (A) When the superintendent finds that any user or other person is committing or has committed a violation, the superintendent may issue an administrative order terminating the user's service and/or revoking the user's permit or license to discharge, if the violation is one of the following:
 - (1) Violation of permit or license conditions; or
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge; or
 - (3) Failure to report significant changes in operations or wastewater constituents and characteristics; or
 - (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
- (B) Noncompliant users will be notified, by registered mail, of the proposed termination of their service and/or license or permit. The user may, within fifteen (15) calendar days of the date the superintendent mails such notification, petition the superintendent to allow continued use of the sewer *district* by the user. Such petition shall be in written form and shall be transmitted to the superintendent by registered mail, stating with specificity the relief requested, the reasons therefore and all authority to be considered. The superintendent may then:
 - (1) Reject any frivolous or nonconforming petitions,
- (2) Order the petitioner to show cause in accordance with Section 13.02.270 of this law, and may, as part of the show cause notice, request the user to supply additional information.
 (LL No. 3, 2009§ 408)

13.02.270 Show cause hearing.

- (A) The superintendent may order any user appealing any final enforcement action to show cause before the administrative board why the enforcement action initiated by the superintendent should not be taken. A user shall be served a notice specifying the time and place of a hearing to be held by the administrative board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the administrative board why the proposed enforcement action should not be taken. The notice of the hearing shall be served at least ten (10) calendar days before the hearing in accordance with Section 13.02.290 of this article. Service shall be made upon the user or upon any principal or executive officer of a user or upon any partner of a user.
- (B) The administrative board may itself conduct the hearing, or may designate any of its members or any officer or employee of the sewer *district* to conduct the hearing. The hearing shall be conducted in accordance with the procedures specified in

Article III of this law.

(C) After the administrative board has reviewed the evidence and testimony, it may order the user to comply with the order or fine, initiated by the superintendent, modify the same, or vacate the same. (LL No. 3, 2009\)\(\) 409)

13.02.280 Failure of user to petition the superintendent.

In the event the superintendent issues any notification of violation or administrative order, terminates the user's service, permit or license, or assesses any fine as set forth in this article, and the user fails, within the designated period of time set forth, to petition the superintendent as provided in appropriate sections of this article, the user shall be deemed in default and its rights to contest the action shall be deemed waived.

(LL No. 3, 2009§ 410)

13.02.290 Notice.

The notices, order, or petitions which the user or superintendent shall desire or be required to give pursuant to any sections of this law or the rules and regulations promulgated pursuant hereto shall be in writing and shall be served personally or sent by registered mail, return receipt requested, postage prepaid, and the notice, order, petition, or other communication shall be deemed given upon its mailing as provided herein. Any notice, administrative order, or communication mailed to the user pursuant to the sections of this law or the rules and regulations promulgated pursuant hereto shall be mailed to the user where the user's effluent is discharged into transmission lines of the sewer *district*. Any notice, petition, or other communication mailed to the superintendent shall be addressed and mailed to the offices of the sewer *district*. (LL No. 3, 2009§ 411)

13.02.300 Right to choose multiple remedies.

The superintendent shall have the right, within the superintendent's sole discretion, to utilize any one or more appropriate administrative remedies set forth in this article. The superintendent may utilize more than one administrative remedy established pursuant to this article, and the superintendent may hold one show cause hearing combining more than one enforcement action. (LL No. 3, 2009§ 412)

13.02.310 Civil actions for penalties.

- (A) When the superintendent finds that any user or other person is committing or has committed a violation, such user or other person shall be liable to the sewer *district* for a civil penalty not to exceed one thousand dollars (\$1,000.00) for each such violation. Each violation shall be a separate and distinct violation, and in the case of continuing violations, each day's continuance thereof shall be deemed a separate and distinct violation. Such penalty may be recovered in an action brought by the attorney for the sewer *district*, or his or her designated attorney, at the request of the superintendent, in the name of the sewer *district*, in any court of competent jurisdiction. In addition to the above described penalty, the sewer *district* may recover all damages incurred by the sewer *district* from any users or other persons who are committing or have committed a violation, and may seek an order suspending, revoking or modifying the user's permit or license. In addition to the above described damages, the sewer *district* may recover all reasonable attorney's fees incurred by the sewer *district* in enforcing the provisions of this article, including reasonable attorney's fees incurred in any action to recover penalties and damages. The sewer *district* may also recover court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
- (B) In determining the amount of civil penalty, the court shall take into account all relative circumstances, including, but not limited to the extent of harm caused by the violation, the magnitude and *duration*, any economic benefit gained through the user's violation, corrective actions taken by the user, the compliance history of the user, and any other relative factors as justice may require. Such civil penalty may be released or compromised by the superintendent before the matter has been referred to the sewer *district* attorney, any such penalty may be released or compromised and any action commenced to recover the same may be settled and discontinued by the sewer *district* attorney, with the consent of the superintendent.
- (C) Nothing in this section shall preclude any cause of action or other civil remedy provided under federal, state, *county*, or town law.

13.02.320 Criminal penalties.

- (A) Any user or other person who acts with criminal negligence or recklessly, knowingly or intentionally is committing or has committed a violation shall be guilty of a Class A Misdemeanor, and upon conviction shall be punished by a fine of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) per day per violation, or imprisonment not to exceed one year or both. Each offense shall be a separate and distinct offense, and, in the case of a continuing offense, each day's continuance thereof shall be deemed a separate and distinct offense.
- (B) Any user or other person who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this law or the rules and regulations promulgated pursuant hereto, or a license or permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this law or the rules and regulations promulgated pursuant thereto shall be guilty of a Class A Misdemeanor and, upon conviction, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) per violation per day or imprisonment for not more than one year or both.
- (C) No prosecution, under this Section 13.02.320, shall be instituted until after final disposition of a show cause hearing, if any was instituted.
- (D) Nothing in this section shall preclude any prosecution or other criminal remedy under federal, state, *county*, or town law. (LL No. 3, 2009§ 414)

13.02.330 Injunctive relief.

Whenever the superintendent finds that any user or other person is committing or has committed a violation, the superintendent may request the sewer *district's* attorney or his or her designated attorney to petition any court of competent jurisdiction, in the name of the sewer *district*, for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities of the violator. (LL No. 3, 2009§ 415)

13.02.340 Summary abatement.

- (A) Notwithstanding any inconsistent provisions of this law or the rules and regulations promulgated pursuant hereto, whenever the superintendent finds, after investigation, that any user or other person is causing, engaging in, or maintaining a condition or activity which, in the judgment of the superintendent, presents an imminent danger to the public health, safety, or welfare, or is likely to result in severe damage to the sewer *district* or the POTW or which presents or may present a danger to the environment or threaten to interfere with the POTW's operation and it therefore appears to be prejudicial to the public interest to allow the condition or activity to go unabated until notice and an opportunity for a hearing can be provided, the superintendent may, without prior hearing, order such person by notice, in writing wherever practicable, to discontinue, abate, or alleviate such condition or activity, and thereupon such person shall immediately discontinue, abate, or alleviate such condition or activity. Where the giving of notice is impracticable, or in the event of a user's failure to immediately comply voluntarily with an emergency order, the superintendent may take all appropriate action to abate the violating condition.
- (B) As promptly as possible after such action, not to exceed fifteen (15) calendar days, the superintendent shall provide the user an opportunity to be heard by issuing a show cause order in accordance with Section 13.02.270 of this law.
- (C) If the user is not within the geographic boundaries of the *sewer district* the right of summary abatement to discontinue, abate, or alleviate conditions or activities shall be those prescribed in any inter-municipal agreement if applicable.
- (D) The superintendent acting upon the belief that an emergency exists, shall be indemnified against any personal liability that may arise in the performance of his or her duties to protect the public health, safety, or welfare, or to preserve the POTW or the environment. (LL No. 3, 2009§ 416)

13.02.350 Public notification.

The superintendent shall publish annually, in the largest daily newspaper of the town, a list of users which, at anytime during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment requirements. (LL No. 3, 2009§ 417)

13.02.360 Contractor listings.

- (A) Users which have not achieved consistent compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the sewer *district*.
- (B) Existing contracts for the sale of goods or services to the sewer *district* held by a user found to be in significant noncompliance, may be terminated at the discretion of the administrative board. (LL No. 3, 2009§ 418)

ARTICLE V

CHARGES

13.02.370 Sewer rents. 13.02.380 Violation of sewer rents.

13.02.370 Sewer rents.

The administrative board may establish and amend from time to time, a wholesale and retail rate schedule know as "sewer rents", setting forth a schedule of charges for the collection, conveyance, treatment and disposal of sewage or wastewater from public corporations, improvement *district*, commercial, industrial and individual users, to determine on an equitable basis, including but not limited to, a system of classification which, for purposes of establishing of differential rates, charges or rentals, may allocate among areas within the sewer *district* designated by the administrative board the cost of the establishment of the sewer *district*, the purchasing of *improvements* therein and operation and maintenance of the sewer *district* or any combination thereof or may impose sewer rents as provided by the general municipal law of the state of New York.

The administrative board shall also have the authority to make additional charges for waste discharges as follows:

- 1. Abnormal sewage;
- 2. Pretreatment program charges and costs;
- 3. Charges for trucked and hauled wastes; capital recovery costs for the collection, pumping, treatment and disposal of industrial wastewater from those persons discharging such wastewater into the sewer *district*;
- 4. A sewer connection fee; and
- 5. All other allowable charges as provided under state and federal law, in particular, but not limited to, Town Law Section 198.

(LL No. 3, 2009§ 501)

13.02.380 Violation of the scale of charges.

The provisions of Article IV of this local law apply to any violation of the sewer rents and/or rules and regulations as provided hereunder. In addition, any and all unpaid charges, rents, fees or costs shall be assessed to the appropriate responsible party and included in such party's real property tax levy as provide under Town Law Section 198 (k). (LL No. 3, 2009\\$ 502)

ARTICLE VI

EFFECTIVE DATE AND SEPARABILITY

13.02.390 Repeal of prior legislation. 13.02.400 Separability. 13.02.410 Effective date.

13.02.390 Repeal of prior legislation.

All codes, laws or part of same in conflict herewith are repealed. (LL No. 3, 2009§ 601)

13.02.400 Separability.

Each provision of this law is severable from the others, so that if any provision is held to be illegal or invalid for any reason whatsoever, such illegal or invalid provision shall be severed from this law which shall nonetheless remain in full force and effect. (LL No. 3, 2009§ 602)

13.02.410 Effective date.

This law shall be effective upon filing with the secretary of state of the state of New York as provided by law. (LL No. 3, 2009§ 603)

Chapter 13.04

WATER SERVICE SYSTEMS

Sections:

13.04.010 Authority and purpose.

13.04.020 General conditions and restrictions.

13.04.030 Definitions.

13.04.040 Water districts service description.

13.04.050 Application for service.

13.04.060 Installation of service.

13.04.070 General rules.

13.04.080 Establishment of schedule rates and fees.

13.04.090 Remedies.

13.04.010 Authority and purpose.

A. Authority.

The *town board*, pursuant to the authority granted under Articles 12 and 12-a of the Town Law enacts and adopts this chapter for the establishment of uniform rules and regulations for the *water districts* of the town.

- B. Appointment of the *Water Board*. The *town board* in this chapter establishes the *water board* for the *water districts*. The *town board* shall appoint the *director of water systems* and all personnel for the *water department*.
- C. Purpose. The *water board* shall act as the governing body having the authority and right to exercise all powers and functions granted by law for the *water districts* and their *water department*. In order to promote the efficient and safe operation and performance of the *water districts*, the *town board* finds it necessary to establish a system of rules and regulations, and a *schedule of rates* to equitably cover and pay the costs associated with the routine operation and maintenance of the water *service*, as well as, budgeting and covering capital costs associated with required system *improvements*.

 (LL No. 1, 2000 § 1)

13.04.020 General conditions and restrictions.

These rules and regulations are prescribed by the *water board*. Every person and/or *premises* supplied water or who shall be supplied or whose *premises* is supplied or will be supplied with water by the *water districts* must comply with these rules and regulations. These rules and regulations are incorporated into any contract existing or future contract between such person and the

water districts. All persons and premises within the service area of the water districts shall connect to the water system either at the time of construction or change in ownership of the premises should either occur following the enactment date of this chapter. (LL No. 1, 2000 § 2)

13.04.030 Definitions.

The following words or phrases as used in this chapter are defined as follows:

Consumer or customer means the person legally or equitably responsible for payment of charges or other facilities and services furnished by the town board.

License means a right, created by an express or implied agreement, of a person to make lawful use of the water supplied by the water districts.

Main extension means extension of distribution pipelines, exclusive of service connections, beyond existing facilities in each water districts service areas.

Mains means distribution pipelines located in streets, highways or public ways which are used to serve the general public that are owned and maintained by the water districts.

Service means a provision of water by the town water districts as follows:

- 1. Commercial: provision of water to *premises* where the *customer* is engaged in trade.
- 2. Domestic: household residential purposes, including water for sprinkling lawns, gardens, and shrubbery, watering livestock; washing vehicles; and other similar and customary purposes.
- 3. Flat rate: provision of water in unmeasured quantities.
- 4. Fire Protection: provision of water to *premises* for automatic fire protection.
- 5. Industrial: provision of water to a *customer* for use in manufacturing or processing activities.
- 6. Irrigation: provision of water for commercial agricultural, floricultural or horticultural use.
- 7. Meter rate: provision of water in measured quantities.
- 8. Municipal: provision of water to a municipality or other public body.
- 9. *Temporary*: provision of water that will not be regular or permanent.

Service area means the area of each water district to which water is supplied or accessible without main extensions.

Service connection means the pipe, valves and other facilities by means of which water is conducted from distribution mains to the curb, or shut-off valve.

Schedule of rates means the entire body of effective rates, rentals, charges and fees established by this chapter.

Unit of water use shall be one thousand (1,000) gallons of metered water.

Unit for capital charge shall be the unit of measure to assess debt *service* reduction equitably within the *water districts* as established by this chapter.

(LL No. 1, 2000 § 3)

13.04.040 Water districts service description.

A. Connections.

No person other than the *director of water systems* or persons authorized and employed by him or her shall be permitted to tap or make any connection with any *mains*.

- B. Description of *Service*.
- 1. Supply. The *director of water systems* and/or the *water board* will exercise reasonable diligence and care to deliver a continuous and sufficient supply of water to a *customer* at a proper pressure and to avoid any shortage or interruption in delivery. However, the *director of water systems* has the right to limit the amount of water furnished at any time for good cause.
- 2. Quality. The *director of water systems* and/or the *water board* will endeavor to furnish a safe and potable water for human consumption at all times.
- 3. Classes of *Service*. All *services* installed by the *water department* shall be classified as follows:
 - a. Domestic:
 - b. Commercial;
 - c. Industrial;
 - d. Irrigation;
 - e. Municipal;
 - f. Fire protection.
- 4. Types of *Service*. The types of *service* available from the *water department* are:
 - a. Flat rate;
 - b. Meter rate;
 - c. Temporary.

(LL No. 1, 2000 § 4)

13.04.050 Application for service.

- A. All applications for the use of water shall be made in writing to the water department on forms provided by the water department.
- B. When accepted by the director of water systems, the application shall constitute a contract between the town and the *applicant*, which incorporates therein all requirements of this chapter and the *schedule of rates* adopted herein.
- C. Applications will be accepted subject to there being an existing main abutting or accessible to on the premises to be served.
- D. Acceptance shall in no way obligate the town to extend its mains to serve premises excepting as hereinafter provided.
 - E. A separate application must be made for each premises.
- F. The plumber designated and employed by the owner of the premises will be considered the agent of the owner while employed to introduce water into the premises. In no sense will be plumber be an agent of the water department. The water department

will not be responsible in any way for the acts of the plumber. (LL No. 1, 2000 § 5)

13.04.060 Installation of service.

- A. Curb Cock or Valve Keys.
- 1. No person unless specially authorized by the water department shall have in his or her possession or hold a key for turning off or on water for the water department. No such specifically authorized person shall part with the possession such a key except to an employee or official of the water department.
- 2. A formal permit shall be required from the director of water systems for the supply of water to a premises. No curb cock controlling any *service* shall be opened or left open by any person after connecting a new *service* at the curb or elsewhere; or after making any new extension or attachment in unoccupied premises so that water may be supplied to the premises by the *service* without a formal permit. In the case where work is a simple extension or additional attachment in premises where the water is then in use and where a permit has been duly obtained to make the same, then the water may be left on for such premises.
- B. Water Shut Off Until Meter is Set. When the plumbing work in any building has been completed and tested it shall be the duty of the plumber to shut off the water and leave it turned off until a meter has been set. The water will be turned on only by an authorized employee or official of the water department.
- C. Injury to Fixtures or Repairs. Any injury to *service* pipes, street *mains*, hydrants, valve boxes, or other fixtures, and any damage that may be caused by leakage or flow of water occasioned by such injury caused by putting in any sewer, drain, or other pipe, or by any excavation embankment, track laying, paving or other construction, shall be paid by the contractor doing the work, by the owner of the premises, or the person for whom such work is being done.
- D. Tap Size and Number. The director of water systems will determine the size of the tap to be inserted in any water main under any application and permit required by this chapter. The following applies to tap installation:
 - 1. No person shall connect two *services* to one tap; but each premises must have one distinct and separate tap and *service* pipe and each *service* must be provided with a stopcock and metal extension box outside of the premises connected with the same.
 - 2. Where a larger tap or a branch is required to replace a tap or taps previously made, the tap or taps which are abandoned shall be shut off at the corporation cock or at such point as determined by the director of water systems, any branch abandoned shall be capped, at the owner's expense and in the presence of an authorized water department employee or official.
 - 3. Supply pipes shall not be laid across adjoining premises. In no case except in that of an industrial use shall permission be granted to supply two or more *service* supply pipes to any premises without special permission in writing from the director of water systems.
- E. Kind of Pipe. Only pipe, fittings or appurtenances as specified in the town water system specifications shall be used. The quality, strength and weight of the pipe shall be equal to that used by the water districts. Water will not be provided by the water districts until the pipe or fittings comply with this section.
- F. Services Laid. Service pipes will be required to be laid in accordance with the town water systems specifications. Whenever the service pipe is extended into the premises from a main such service pipe shall be extended and installed in accordance with the town water systems specifications. The water mains shall be laid out in accordance with town water systems specifications.
- G. Materials and Workmanship. All of the parts of the water *service* inside the building and the fixtures and appurtenances connected therewith, shall be of such form, character and workmanship as is hereinafter described, required by the town water system specifications, and as may be approved by the director of water systems.
 - H. Stop and Waste Cock.

- 1. Location. Immediately inside the basement or foundation wall of the building into which the *service* pipe extends, a stop and waste cock shall be conveniently located and arranged so that water may be drawn back and all of the pipes within the building be emptied too such stop and waste cock. The stop and waste cock must be kept open at all times when the *service* is not in use.
- 2. Adequate Space to be Maintained. Persons installing new *services* or house plumbing shall leave sufficient horizontal space next to the stop and waste cock for the installation of meters as established in the town water system specifications. Failure to meet this requirement may result in the water districts refusing to accept the meter installation or to allow the water to be turned on or off.
- I. Large Cut-in Connections.
- 1. If a two inch or larger connection is required, a *service* pipe as specified in the town water system specifications shall be used. Connection to the main shall be made with patented or standard fittings; all material shall be approved by the director of water systems. All such *services* shall have a gate valve placed in the *service* pipe near the main, which gate shall be controlled exclusively by the water department.
- 2. The owner shall be responsible for all design and installation costs associated with any connection made pursuant to this subsection. In addition to the fees and rates established under this chapter, the owner shall pay the cost of cutting and restoring all surfaces as caused by any connection made pursuant to this subsection.
- J. Inspectors Right-of-Entry. Employees of the water department upon presentation of proper identification, may enter and must be permitted to enter upon any premises where water is being supplied by the water districts, or upon any premises when application is made for a permit to connect plumbing with the water pipes for the purpose of inspecting the plumbing and fixtures of the water *service* and all work in connection with such *service*. (LL No. 1, 2000 § 6)

13.04.070 General rules.

- A. Meters.
- 1. The director of water systems shall, in granting applications for new connections, whether the connections are to replace old connections to be abandoned or are for the purpose or supplying new *service*, require that the connected *services* therewith be metered.
- 2. Installation of Meters.
 - a. Domestic Meters. For use in domestic *services*, meters one inch or less than one inch in size shall be permitted. The meter shall be of a type approved by the director of water systems. The meter shall be installed by the water department and the cost shall be borne by the owner. Subsequent meter replacement shall be provided in accordance with the rates and charges established in this chapter.
 - b. Commercial Meters. For use on commercial *services* or other large *consumers*, meters two inches or less than two inches in size shall be furnished. The meter shall be of a type approved by the director of water systems. The meter shall be installed by the water department and the cost shall be borne by the owner. Subsequent meter replacement shall be provided in accordance with the rates and charges established in this chapter.
 - c. Large Meters. When the meter required is larger than the size above specified, the meter shall be of a type approved by the director of water systems. The meter shall be installed by the water department and the cost shall be borne by the owner. Subsequent meter replacement shall be provided in accordance with the rates and charges established in this chapter.
- 3. Ownership and Responsibility. All meters shall be installed by the water department and shall remain the property of the water districts. The owners in whose premises such meters are installed will be held responsible for their

safekeeping. Any damage caused to such meters by the carelessness, recklessness, gross negligence, and/or negligence of the owner, his or her agent or tenant, or by either of them, shall be paid to the water districts by the owner; and in default of such payment the water supply shall be shut off until such payment is made.

- 4. Repairs. All repairs to meters shall be made by regular employees of the water department only. Repairs due to ordinary wear and tear will be made free of charge, but repairs due to abuse or lack of maintenance such as hot water, freezing or other external sources must be paid by the owner of the premises; and if a meter is damaged beyond repair such owner must pay for a new meter in accordance with the rates and charges established in this chapter. Upon refusal of owner to pay for any such repairs, the water will be shut off until all charges are paid.
- 5. Seals. All meters installed by the water department and all by-passes shall be sealed and such seals must not be broken except by employees of the water department.
- 6. Removal. No meter shall be removed or disturbed except by employees, or as permitted by officials, of the water department.
- 7. Minimum Standards. No meter shall be installed by the water department unless the *service*, *service* fixtures and plumbing adjacent to the proposed location of the meter are in a good and *service*able condition and as follows:
 - a. The curb box must be readily accessible.
 - b. The curb cock, stop and waste cock must be in good working order; and any rusty or unsafe pipes next to the proposed locations of the meter must be replaced.
 - c. The owner of the premises in which a meter is to be installed, shall be notified in writing by mail, addressed to him or her at such premises of any required repairs to be made prior to installation of such meter.
 - d. No meter shall be installed until all required repairs have been completed.
- 8. Backflow Prevention Devices and By-Passes. All meters installed by the water districts shall have backflow prevention devices installed in accordance with all requirements and specifications of the New York State Public Health Law, Section 225, subpart 5-1, Public Water Supply Systems and as follows:
 - a. The expense of such backflow prevention devices shall be borne by the owner.
 - b. All such devices shall have a lock-out device which shall be sealed, and be under the exclusive control of the water districts.
- 9. Outside Meter Placement for Seasonal Use Only. In case it is necessary to install a meter in an outside setting, the extra expense of this setting must be borne by the owner and paid to the water department.
- 10. Number of Meters to be Furnished. Only one meter to a premises will be furnished by the water department at the owners expense. It must be placed to cover all the fixtures connected with the supply or *service* pipe, and must be in a position where it can be conveniently read.
- 11. Where *service* is desired for multiple dwelling, commercial, or industrial use, a detailed plumbing plan showing *service* supply, fixtures and equipment and any other water use facilities must be submitted at the time of application to the director of water systems.
- 12. Electrical Grounding. The water system shall not be used as a part of any grounding electrode system. Ref. NFPA 70-1993, the National Electrical Code (NEC) as referenced in Section 1030.1(a) of the NYS Uniform Fire Prevention and Building Code (Uniform Code) as RS 51-2.
- B. Sub-Metering and Purveying of Water. The sub-metering or purveying of water shall not be permitted. No person shall supply water in any manner through any fixture or device to the occupants of neighboring premises of any description except

under a special written permit approval by the director of water systems. No person shall in any way purvey water supplied by the water districts.

- C. Supply--Restrictions on Water Use. The water department reserves the right to restrict, limit or suspend the supply of water within the water districts under the following conditions:
 - 1. Lawn Water Sprinkling. Lawn sprinkling may be forbidden at any time by the director of water systems, in case he or she should deem it necessary to conserve the water supply for the town.
 - 2. Restrictions or Limits on Water Furnished.
 - a. Limit on Water Use. The water department reserves the right to limit the amount of water furnished to any *consumer* should circumstances seem to warrant such action, although no limit may be stated in the application or permit for use. In addition the water department may entirely shut off the water supply used for any industrial uses, or for furnishing power or for lawn sprinkling at any time by getting or giving reasonable notice to the *consumer* of such intended action.
 - b. Temporary *Service* Interruption. The water department reserves the right to shut off water from any *service* or any main for the purpose of making or constructing new work or in making repairs, without formal written notice for a short-term time frame as may be necessary.
 - 3. Waste of Water is Prohibited. Allowing water to run to prevent freezing in the *service* pipes or their attachments, or for the purpose of flushing soil or sewers, or for any other purpose on the premises than those paid for or indicated in the application for the same and which are allowed by these rules and regulations shall be prohibited. Faucets must be kept properly packed and all other fixtures in repair, so as to prevent leaks. The director of water systems may shut off the water for failure to comply with this requirement.
 - 4. Supply to Detached Building on the Same Lot. In cases where it becomes advisable and necessary to supply water to a number of detached buildings upon the same lot from an attachment affixed or properly belonging to only one of the buildings, a special permit for the use of the town water may be granted by the director of water systems. The owner of the premises will be held responsible for all unauthorized use or waste of water; and in case such unauthorized use or waste is discovered, the permit shall be revoked and the water shut off without notice; and service will not be turned on again until all charges for unauthorized use or waste shall have been paid together with the charge for turning on the water to the water department.
 - 5. Supply to *Services* Outside Water Districts. All municipalities, water districts, persons, firms or corporations outside the town water districts limits desiring a supply of water in a private main must comply with the rules and regulations set forth in this chapter, and must make application therefore to the director of water systems on forms prepared for that purpose. The director of water systems shall make a report thereof to the water board and upon the execution of a contract therefore, between the applicant and the water board, the director of water systems may arrange for furnishing water to the *applicant*(s) at rates established by the water board.
 - a. Any addition to or connection with private *mains* or supply pipes for the purpose of supplying water to other premises shall not be made until a written permit is granted by the owner of the pipes to the party or parties desiring such connection, and a copy thereof filed with the water department and the party or parties agreed to comply with these rules and regulations.
 - b. The water department reserves the right to refuse to permit such outside connections and to discontinue the supply of such water at any time.
 - 6. Supply for Construction Purposes. Water will be furnished to builders or contractors for construction purposes only upon application to the director of water systems, and the receipt of a permit therefore in writing, personally signed by the director of water systems:
 - a. The estimated amount of the water for work to be completed by the builder or contractor must be given and payment for such water may be required to be made by the water department in advance before permit is

granted.

- b. Where necessary to make temporary connections with fire hydrants, standard hydrant wrenches and reducing caps supplied by the water department shall be used for which a deposit shall be required.
- c. Permits issued hereunder shall terminate on November 1st each year, and may be revoked at any time by the director of water systems.
- d. No *consumer* of water will be allowed to furnish water for building purposes on his own or other premises without first paying for such water and receiving a permit for such use from the director of water systems.
- e. In case the builder or contractor is required to insert a special *service* pipe or fixture to enable him or her to procure water for building purposes the application for such *service* must be made by the owner of the property. After filing such application, the permit for such use may be issued to the builder on his or her application; and he or she must file an application to have the water turned off at the curb as soon as he or she has finished his work.
- 7. Discontinuance of Use of Water. When for any reason the use of a *service* is discontinued, such *service* shall be shut off at the corporation cock at the main and any branch abandoned shall be capped. If the owner fails to comply with this subdivision, the *service* may be shut off and any such branch capped by the director of water systems. All expense connected therewith shall be borne by the owner and chargeable against the property at which such *service* was discontinued regardless of whether or not such owner owned such property at the time that such *service* was discontinued. If the owner refuses to reimburse the water districts for *services* so rendered, the water will be shut off until payment is made.
- 8. Steam Boilers. The water districts, water department, water board, or the town will not be responsible for any accidents or damages that may result through supplying steam boilers directly from the *service* pipe, or for the failure of water pressure in the distribution pipes to fill such boilers under working pressure. In addition the parties listed above will not be responsible for any accidents or damages that may result in consequence of house boilers being unprotected by vacuum or other valves, or of the imperfect action of the same nor for any lack of strength in the boilers or their appurtenances to withstand the pressure in the distributing *mains*. Further, the above listed parties will not be responsible for any damage occasioned by reason of the breaking of any cock, valve or of any *service* pipe or appurtenance thereto, nor for any accidents or damages arising from shutting off the water for the repairs of *mains*, for new work or for any purpose whatever.
- 9. Change of Pressure. The water districts, water department, water board, or the town will not be liable for any damage or loss of any kind to property or persons which may arise from or be caused by any change in or increase of water pressure from any cause whatever.
- D. Services.
- 1. Service Pipes Maintained.
 - a. Owner Responsibility. The owner of any premises into which water is introduced by a *service* pipe shall be required to maintain in perfect order at the owner's cost and expense the *service* pipe from curb cock to the owner's premises, including all fixtures therein provided for delivering or supplying water for any purpose. The curb box must be kept in view and the top thereof must be even with the sidewalk or street grade at all times, and in a *service*able condition. In case such *service* and fixtures are not kept in good and *service*able repair, the water may be shut off from the premises until the requirements of this subdivision are complied with; or the water department may make the necessary repairs to conform to the requirements of this subdivision and charge and collect the cost thereof from the owner of the premises and shut off the water to such premises until such charges are paid in full.
 - b. Water District Responsibility. The water department will maintain and repair each *service* pipe between the water main and the curb cock controlling the *service*, provided:

- i. The same is in a public easement;
- ii. The *service* has been installed in full compliance with the rules and regulations set forth in this chapter;
- iii. The failure of the *service* or the damage thereto which results in repairs under this subdivision has not been caused by the improper act or omission of the owner;
- iv. If *service* or equipment is interrupted or damaged as a result of the owner's negligence, carelessness, omission, or gross negligence, the owner shall pay the entire cost of the necessary repairs.
- 2. Protection From Freezing. *Service* pipes shall be located in areas best protected from frosts. In structures where there is no cellar the *service* pipes shall be carried to the center of the building or to unexposed areas previous to being carried upward in the structures.
 - a. In all cases where the *service* pipe passes through areas or basements having windows, grating, or traps open to the weather, the openings shall be closely covered and the windows and doors closed to the outside area during the cold weather.
 - b. In all exposed situations the *service* pipes and fixtures shall be properly wrapped with felt or other nonconducting substances and surrounded with a box, packed with nonconducting substances if necessary to protect such *service* from freezing.
 - c. All protection shall be at the expense of the owner, and in case he or she neglects to protect his or her *service* as aforesaid, the director of water systems may shut off the water therefrom.
- 3. Defective *Services*. In all premises where water from the *mains* is now supplied by a system of pipes and fixtures that are not of the standard or pattern prescribed in these rules and regulations, or where the *service* does not comply with any other part of these rules and regulations, the owner of the premises shall be ordered by the director of water systems to make all necessary changes to comply with such rules and regulations. All costs associated with compliance of such an order shall be the sole responsibility of the owner. If the owner fails to comply with such order, the water may be shut off from such premises until the defective items are remedied.
- 4. Fire *Service*. Stand pipes or pipes for automatic suppression of fire in buildings, which fixtures are only intended for such use may be attached to the water supply in accordance with the following requirements:
 - a. All material and designs for such connection shall be approved by the director of water systems.
 - b. All such pipes must be provided with suitable valves outside of the building and under exclusive control of the water department.
 - c. In the case of stand pipes, a valve must be provided and placed at the bottom of the stand pipe.
 - d. The water board reserves the right to refuse any or all applications for water for merely fire protection uses at its discretion.
 - e. The entire cost and expense of installing the fire *service* shall be borne by the owner of the premises. Under no condition shall connection be made with such fire protection fixtures for the supply of water for any other purpose.
 - f. If the fire *service* is to be shut off, a letter from the owner of the premises is required. In addition, the water districts, water department, water board or town will not be responsible in any way when the fire *service* is shut off.
 - g. Fire Service Maintained. The owners of the premises where pipes are in service for fire protection only

shall maintain such *service* pipe from the street main into the premises; and they shall be responsible for any damage that may be caused by a leak in such pipe, or the breaking or bursting of such pipes, unless such damage has been caused through the negligence, carelessness, or gross negligence of the water department.

- h. No Yard Hydrants. No yard hydrants or stand pipe will be allowed in any yard or lot; and any such existing hydrant must be abandoned upon notification from the director of water systems.
- i. Required Maintenance. All stand pipes or pipes for automatic suppression of fire in buildings, which fixtures are only intended for such use, as well as all private fire hydrants shall be properly maintained by the owner and documentation of the proper maintenance filed annually with the director of water systems.
- j. Hydrants (Penalty for Opening). All street hydrants are under control of the water department.
 - i. Opening. No person shall use a wrench for opening hydrants except a wrench furnished by the water department.
 - ii. Use of Water. No person except an authorized agent or employee of the water department, or of the fire department, or highway department employee of the town, or a person holding a written permit signed by the director of water systems, shall disturb any hydrant or any part thereof, or take any water there from under any circumstances whatever.
 - iii. Designated Hydrants. Any purchase of water shall be taken from hydrants designated by the water department and operated by personnel of the water department.
 - iv. Damages. If any damage to a street hydrant occurs as the result of a permitted person taking water from the hydrant, the holder of the permit shall pay such damages and all cost and expenses that may be incurred by reason thereof, on demand, to the water department. In addition the permit may be revoked.
 - v. Obstructions. No person shall place any obstruction that would prevent free access to any fire hydrant or leave any vehicle standing within fifteen (15) feet of the hydrant.
 - vi. Change of Hydrant at Owner's Request. If an owner desires a change in the size, type or location of a hydrant, the owner shall bear the entire costs of such request without refund or contribution by the water districts, water department, water board or town.
 - vii. Use by Volunteer Fire Departments. No hydrants shall be used by volunteer fire companies from fire districts outside of the town unless arrangements have been made with the water department. In the case of emergency and non-emergency situations, use of hydrants must be reported to the *water department* within seventy-two (72) hours of the occurrence.
- 5. Street Sprinkling Rules. Any person, under contract with the town or private persons engaged in the work of sprinkling any streets or highways of the town, shall do so subject to the following:
 - a. *Application*. Such person shall apply for a permit to the *water department* on forms provided for such purpose.
 - b. Street Hydrants. Water shall be taken only from hydrants that have been designated by the *director of water systems*.
 - c. Charge. Before receiving such permit the *applicant* shall pay to the *water department* the charges as prescribed in Section 13.04.080 of this chapter, and shall pay deposit fee as established by the *director of water systems* prior to receiving a wrench for opening hydrants. The deposit shall be returned to the permit holder when the hydrant key is returned to the *water department*.

- d. Water for Sprinkling Only. A permit to sprinkle does not authorize anyone to take water from a hydrant except for sprinkling purposes; and anyone who takes water from a hydrant for any other use without a special permit from the *water department* shall be in violation of this chapter.
- 6. Operated by *Employees* Only. No person except an *employee* of the *water department* shall open, close or in any way interfere with any street valve or gate in any water main, conduit or street pipe.
- 7. Displaced or Covered. Any person who has disturbed or displaced a valve box so that the valve stem cannot be reached by a key, or who has covered a valve box or manhole cover of a valve chamber with dirt, paving, plank or other material, shall immediately replace the valve box and remove the obstruction and be subject to the civil and criminal penalties as set forth in this chapter.
- 8. Discontinuance of *Service*. If any provision of these rules and regulations is not complied with at any *premises*, or the *owner* of any *premises* fails to do any matter required to be done by him or her in accordance with these rules and regulations, or such owner fails to make any payments of money payable to the town or the *water districts* for the supply of water, or otherwise required by these rules and regulations; the *water department* may shut off the water supply to such *premises* until the *owner*, person or *premises* is in full compliance. Any *owner* shall have the right to file a written grievance with the clerk of the *water board* within ten (10) days after notification that water *service* is being shut off, and the *water board* may in its discretion, stay any shut off and shall conduct a hearing within thirty (30) days of the filing of the grievance and decide on the grievance within five days after the hearing. When any water supply is shut off, the *customer* shall pay the cost of shutting off and then reinstating such water supply before *service* is restored.

(LL No. 1, 2000 § 7)

13.04.080 Establishment of schedule rates and fees.

- A. The *water board* shall establish, and may amend from time to time by resolution, a *schedule of rates* and charges for water *service*, including those listed in this chapter. Water rates and charges for *services* as set by the *water board* shall be filed in the office of the town clerk. The *water board* may set a scale of water rates for *consumers* residing outside the specified *water districts' service area* at higher rate as shown in the schedule of water rates.
 - B. Water Rates. The following types of water rates are established:
 - 1. Minimum Water Rates and *Schedule of Rates*. The *schedule of rates* for water *use* shall be established on a *unit of water use* charge basis. This *schedule of rates*, to set the *unit of water use* rate, shall be based on a formula that calculates the annual cost of provision of operation and maintenance for the *water districts* minus the calculated minimum water rates divided by the amount of *units of water use* billed in the previous calendar year.
 - 2. Line Charge. A minimum line charge for the provision of a meter for water *service*.
 - 3. Capital Fee. A capitalization charge sufficient to cover debt *service* for any bonds or other indebtedness incurred by the *water districts* pursuant to local finance law of the state of New York.
 - 4. Application for Service Fee. The service fee shall be the cost of service installation from the main to the curb box, including the cost of labor, materials, equipment rental and overhead charges for the installation of and/or to the curb box. The applicant shall pay an advance payment stated on the service installation order form before work is commenced. The advance payment shall be deducted from the total cost of the new service line. In the event that the service request requires any engineering services, the cost of any engineering review incurred by the water districts shall be passed through directly to the applicant who shall be responsible for all such costs incurred by the water department in association with his or her application.
 - 5. *Service* Charges. *Service* charges, shall be charged for the discontinuance of *service*, restoration of *service*, special meter readings, tax levy fees, meter tests.
 - 6. Fire Protection Fees. Special *service* charges for private fire protection *services*.

- 7. Flat Rates. Flat rate for *temporary* usage.
- C. Billing.
- 1. When Bills are Payable. All bills are due when rendered and payment is required within the bill date as stated on the billing, and the bill or account shall become delinquent as of this bill date. All bills will be sent in the *customer*'s name and the board is not responsible for the failure of the postal *service* to deliver bills. All remittances received shall be considered received as of the date of receipt in the *water department* office.
- 2. Responsibility for Bills. All bills for *use* of water *service* are charges against the *owner* of the *premises* served and the property where the water is served, and all water rents are considered a lien on the property. Failure to receive bills for water *service* or repairs does not relieve the *owner* from liability to pay. It is the responsibility of the *owner* of the property served to keep track of all unpaid water bills.
- 3. Issuance of Bills. The *water board* will endeavor to read each meter and render a bill at regular intervals of three months. Meters may be read and bills may be rendered monthly where consumption exceeds sixty thousand (60,000) gallons per quarter or twenty thousand (20,000) gallons per month.
- 4. Penalty Rates. A late payment penalty shall be imposed upon past due water use fees a one time rate of ten (10) percent of the amount shown on the billing statement if paid up to thirty (30) days past the bill date shown on such statement. After November 1st any amount remaining due on any account of an owner will be included in the annual town tax levy as authorized by law, and the amount so levied will include an administrative fee of twenty-five dollars (\$25.00).
- 5. Property Transfer. All bills are sent in the owner's name and, in purchasing property, the prospective owner shall determine whether or not there are outstanding bills. Outstanding water bills or charges shall be paid prior to property transfer. Failure of the owner or *customer* to receive bills does not relieve him of responsibility for payment. A transfer fee in accordance with this section shall be paid by the owner.
- 6. Discontinuance of *Service*. If a water bill remains unpaid for a period of thirty (30) days for a *customer* on the monthly billing cycle and ninety (90) days for a *customer* on the quarterly billing cycle of the bill date on the billing statement, water *service* may be discontinued until such bill, together with all fees and penalties as provided herein have been paid in full. The water department shall follow the following procedures when discontinuing *service*. The following procedure will be followed when a bill is delinquent for more than one billing cycle and the water district intends to discontinue *service*:
 - a. Copy of the original bill is produced and mailed in accordance with the notification procedures as set forth in subsection (C)(6)(f) of this section;
 - b. If payment is not received within the next thirty (30) days a delinquent list and bill is produced by the water department and mailed indicating that payment has not been received to date;
 - c. If payment is not received within ten (10) days a shut-off notice is mailed allowing fifteen (15) days before shut off;
 - d. If payment has not been received by the next billing cycle, a previous balance will appear on the bill along with the current bill information. Prior to mailing this billing, a shut-off notice will be included with the bill. If payment is not received prior to or on the date stated, a shut off list is compiled showing account number, name, address and amount due;
 - e. The water board shall approve the list and the shut off procedure, as outlined in subsection (C)(6) of this section, shall be put into motion the next workday. If water *service* is discontinued for nonpayment, a reconnect charge and *service* charge as stated in the current rate scale shall be charged and paid before restoration of *service*.
 - f. Notification Procedures Prior to Shut-Off.

- i. The water board shall mail to the *customer*, and in the instance where the *customer* is not the owner of the property, the owner, a fifteen (15) day written notice by certified mail of the intention to discontinue *service* for nonpayment of bills.
- ii. In the event of multiunit residents or business with tenants, a fifteen (15) day written notice shall be posted on the door of each rental unit or house, or if the name of the tenant can be determined, the notice will be served by mail.
- iii. Notice shall also be provided as specified in subsection (C)(6)(f)(i) of this section to any and all third-party notification requests that are registered with the water department.
- iv. Reasonable efforts shall be made by the *water board* to locate tenants in all rental units or multiple dwellings to assure that notice has been given to them.
- v. Notice shall include the following:
 - (A) The date of the proposed shut-off;
 - (B) The reason for said shut-off;
 - (C) If for nonpayment, the name of the person responsible for the bill.
- 7. Restoration of *Service* Fee. Prior to resumption of *service* following a shut-off of *service*, a deposit equal to the amount of at least two immediately prior water bills for the *premises* shall be provided to the *water department*. Such deposit will be placed in an escrow account and gain interest to the benefit of the *customer* until such time as the town needs to access the account for the *customer*'s failure to pay the water rates. Such access shall occur without prior notification to the *customer* and the *customer* will remain fully responsible for any sums deemed payable which is not recovered from such accounts.
- 8. If after one year of continuous *service* from the date of the restoration of *service*, all water bills are fully and timely paid, upon written demand of the *customer*, the deposit established under this subsection shall be remanded to the *customer*.

(LL No. 1, 2000 § 8)

13.04.090 Remedies.

- A. Penalty. Any person found to be in violation of any of the provisions of this chapter; and any person who shall assist in the commission of any violation of this chapter or any conditions imposed by the director of water systems shall be guilty of a misdemeanor punishable by a fine of not more than five hundred dollars (\$500.00) or imprisonment not to exceed ninety (90) days or both. Every such person shall be deemed guilty of a separate offense for each day such a violation, omission, neglect, or refusal shall continue.
- B. Alternative Penalty. In case of any violation or threatened violation of any of the provisions of this law, or conditions imposed by the director of water systems, in addition to other remedies herein provided, the town board may institute any appropriate civil actions or proceeding to prevent such unlawful actions. In determining the amount of the penalty, the court shall take into account all relative circumstances, including but not limited to the extent of harm caused, or potentially caused by the violation, the magnitude and duration, any economic benefit gained through the person's violation, corrective actions taken by the person, the compliance history of the person, and any other relative factors as justice may require. The town may recover all damages, incurred from any person who are committing or have committed a violation, and may seek an order suspending or revoking or modifying the person's permit for water use. In addition to the above described damages, the town may recover all reasonable attorney fees incurred by the town in enforcing the provisions of this chapter, including reasonable attorney's fees incurred in any action to recover penalties and damages. Further, the town may also recover court costs, and other expenses associated with the enforcement activities. (LL No. 1, 2000 § 9)